

REMARKS

This Amendment is a supplemental formal written reply to the outstanding Office Action of October 28, 2009, is supplemental to the response filed on April 28, 2010, and takes into consideration the interview that was conducted at the Patent and Trademark Office with Examiner Danielle Sullivan and her Supervisor, Johann Richter, on May 25, 2010. Applicants would like to thank Examiners Sullivan and Richter for the courtesies extended to Applicants' attorney, Jane Hamby, during that interview.

In the interview, the rejections in the outstanding Office Action under 35 U.S.C. §103(a) over U.S. Patent No. 5,474,971 to Sandell (hereinafter Sandell '971) were discussed. In particular, Applicants' attorney noted that while Sandell '971 discloses on column 3, lines 59 – 62, that conventional methods for preparing water-dispersible granule compositions involve (1) water-spraying in fluidized bed or pan granulation equipment; (2) spray-drying; (3) dry compaction and (4) extrusion of water-wet paste, this disclosure is directed to *known or conventional* methods for preparing water-dispersible granules at the time that Sandell made his invention as disclosed in the '971 patent, as opposed to the invention of Sandell '971. Hence, the disclosure of extrusion of a water-wet paste cannot be read to apply to the inventive composition as disclosed in Sandell '971.

During the interview, Examiner Sullivan consequently suggested that it would have been obvious to add water to the dry premix of Sandell '971, hence combining the teaching of extruding a water-wet paste, disclosed as conventional in Sandell '971 with the teaching of a dry premix as taught by the invention of Sandell '971. In the file history in this application, Examiner Sullivan has proposed motivation for doing so. See page 5 of the Office Action of May 22, 2008, where the Examiner states:

It would have been obvious to one of ordinary skill in the art at the time of (sic.) prepare the composition as a water wet extrudable paste since '971 teaches a process for preparing extrudable water wet pastes and drying the granules. In view of KSR International Co. v. Teleflex Inc., 82 USPQ 1385 (U.S. 2007) it would have been obvious to try adding water to soften the paste instead of heating it since it would require less energy than heating and is a common method of extrusion. One would have been motivated to formulate a water wet paste by extrusion of a water wet paste when preparing compositions at elevated temperature is not desired.

See also page 7 of this Office Action, as well as page 12 of this Office Action.

In addition on page 9 of the Office Action of August 29, 2007, the Examiner offers an additional motivation for adding water to the dry premix of Sandell '971:

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Sandell et al. to further include water in a process for preparing the paste-extruded sulfonamide. One would have been motivated to include water because adding water would help form a paste and if the composition extruded was to(*sic.*) powdery adding water would improve its texture.

In order to overcome the Examiner's proposed combined teaching, Applicants' attorney argued that introducing water to the dry premix of the invention of Sandell '971 would destroy the physical characteristics and nature of the mix. In recognition that attorney arguments cannot take the place of evidence of record, Applicants' Attorney noted that she would consider having these arguments with respect to this point made in a 1.132 affidavit. As noted on the Interview Summary Form, said statement, when executed, would place this application in condition for allowance. Applicants gratefully acknowledge this indication of allowability and accordingly, with this Amendment, submit a Declaration under 37 CFR §1.132, submitted by Luann Pugh, one of the inventors in this application, discussing the effect of adding water to the dry premix of Sandell '971.

As discussed in the Declaration, if water were added to the dry premix, the water soluble components of the premix, which are responsible for the melting/softening, as well as the hardening/solidifying of the premix, would be converted to solution, which would disrupt the hardening/solidifying of premix after extrusion. As a result, the granules of Sandell '971 simply could not be formed. For this reason, it is respectfully submitted that it would not have been obvious to one skilled in the art to add water to the dry premix of Sandell '971. In view of the foregoing, allowance of the above-referenced application is respectfully requested.

By this Amendment, Applicants have amended Claims 19 and 31 to be independent claims, and have amended Claim 32 to recite "further".

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There should be no fee due in connection with the filing of this Amendment. However, should a fee be due, please charge such fee to Deposit Account No. 04-1928.

Respectfully submitted,

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